

Remarks

Preliminary Matters

No Claims have been cancelled. No Claims have been added. No additional fees are required. If determined otherwise, the Office is authorized to charge Deposit Account No. 07-1077 for the amount.

§ 103 Rejections

The following rejections were made.

1. Claims 1-10 using Laughner et al. (US 5,196,479) in view of Chung et al. (US 2005/0065263).
2. Claims 1-10 using Lacroix et al. (US 7022768) in view of Cartasegna (US 4,883,840) and further in view of Chung et al. (US 2005/0065263).

In response, Applicants have amended their claims and submit these remarks in support of those amendments.

Claim 1 has been amended to establish a two resin blend with a two impact modifier system. Claim 2 has been amended to correct the antecedent basis. Claim 6 has been amended in accord with Claim 1. Claim 7 has been amended to identify optional ingredients.

Support for the amendments come from Page 3, Page 6, and the Examples, especially Examples 1 and 2.

Claims 1-10 now are patentable over Laughner et al. + Chung et al. because Applicants have amended Claim 1 to recite that their polymer resins consist essentially of a polyester and a polycarbonate.

Laughner et al. *requires* polyphenylene ether to be present, which Applicants neither need nor desire for their thermoplastic polymer blend. A review of the Examples of Laughner et al. show blends of only polyester and polycarbonate are consistently regarded as Controls. Please see Controls A-G and J-K¹. Chung et al.

¹ Control I can not be found; Control H also includes PPE for reasons unknown, but irrelevant to the point being made.

also does not focus on a polymer blend consisting essentially of polycarbonate and polyester.

Therefore, Claims 1-10 as amended are patentable over the combination of Laughner et al. and Chung et al.

Claims 1-10 now are patentable over Lacroix et al. in view of Cartasegna and further in view of Chung et al. because Applicants have amended Claim 1 to recite that their impact modifiers consist essentially of a minor amount of a thermoplastic vulcanizate and a core/shell additive having an elastomeric core. Lacroix et al. requires three different types of impact modifiers, as explained² at Col. 9, Lines 46-48. Applicants as shown in Examples 1-5 do not need three different impact modifiers to achieve the performance reported in such Examples.

Applicants' Comparative Example A uses a combination of a core/shell impact modifier (D400) and a linear terpolymer (AX8900) whereas Applicants' Examples 1-5 employ a combination of TPV and a core/shell impact modifier. Lacroix et al. even requires one more impact modifier than Applicants' Comparative Example A, and Lacroix et al. specifically identifies the need for AX8900 whereas Applicants have eliminated that linear terpolymer impact modifier from their claimed polymer blend.

Cartasegna does not disclose the particular combination of impact modifiers which Applicants have proven to be effective. Cartasegna requires a combination of (a) EPM or EPDM and (b) HDPE to "... to perform extremely well in modifying polycarbonate properties to give a much improved impact performance without the tradeoff in stiffness which is a feature of polycarbonate materials which have been modified with the usual modifiers such as PBT." (Col. 4, Lines 50-58). Cartasegna teaches 8 different compounds with 8 different approaches to impact modification which do not work and only one that does: a 66/34 blend of EPM/HDPE. (Tables 1 and 2).

² "The impact modifier either consists of A, B and C, in the case of the examples according to the invention, or of A and B, or of B and C, or of A, or of B, or of C." [which are not according to the invention] (Emphases and editorial completion added.)

Thus to a person having ordinary skill in the art (PHOSITA), Lacroix et al. are teaching one combination of impact modifiers and Cartasegna is teaching a second combination of impact modifiers in a totally different direction from the Lacroix et al. combination. It would not be obvious to PHOSITA to combine bits of impact modifier teaching from Lacroix et al. (which are taught not to be their invention) with bits of impact modifier from Cartasegna (which are also taught not to be his invention) in order to land upon a combination which Applicants have found to be successful. A failure from the primary reference and a failure from the secondary reference do not render obvious the success of *this* invention. PHOSITA would not even be incited to try to combine two different failures, because they are taught to be failures. The perspective from the future may find Applicants' particular combination from fragments of the two different references, but that is not how patentable invention should be determined.

Chung et al. remains unable to fill in the gaps that any appropriate combination of Lacroix et al. and Cartasegna might need.

Therefore, Claims 1-10 as amended are patentable over the attempted combination of Lacroix et al. and Cartasegna and Chung et al.

To achieve allowance, Applicants are content to confine their claimed thermoplastic polymer blend to what they exemplify. Applicants request a Notice of Allowance for Claims 1-10.

If there are any matters that prevent a Notice of Allowance, the Examiner is invited to contact the Undersigned by telephone.

Respectfully submitted by:

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Date

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